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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9
10 **AT TACOMA**

11 **KEVIN FRANCKOWIAK,**) Case No.
12)
13 Plaintiff,) **COMPLAINT**
14)
15 vs.)
16)
17 **BAY AREA CREDIT SERVICES,) *JURY TRIAL DEMANDED***
18 **LLC,**)
19)
20 Defendant.)

21 **I. NATURE OF ACTION**

22 1. This is an action for damages brought by an individual consumer for
23 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
24 1692, *et seq.* (hereinafter "FDCPA") and of the Revised Code of Washington,
25 Chapter 19.16, both of which prohibit debt collectors from engaging in abusive,
26 deceptive, and unfair practices. Plaintiff further alleges a claim for invasion of
27 privacy by intrusion, ancillary to Defendant's collection efforts.

28 Complaint - 1

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II. JURISDICTION

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).

III. PARTIES

3. Plaintiff, Kevin Franckowiak, is a natural person residing in the State of Washington, County of Kitsap, and City of Port Orchard.

4. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3), and a “debtor” as defined by RCW § 19.16.100(11).

5. At all relevant times herein, Defendant, Bay Area Credit Services, LLC, (“Defendant”) was a limited liability company engaged, by use of the mails and telephone, in the business of attempting to collect a “debt” from Plaintiff, as defined by 15 U.S.C. §1692a(5).

6. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6), and a “licensee,” as defined by RCW § 19.16.100(9).

IV. FACTUAL ALLEGATIONS

7. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt. Defendant’s conduct violated the FDCPA and RCW § 19.16 in multiple ways, including but not limited to:

- a. Failing to provide Plaintiff with the notices required by 15 USC § 1692g, either in the initial communication with Plaintiff, or in writing within 5 days thereof, including (§ 1692g(a));
- b. Threatening to take an action against Plaintiff that cannot be legally taken or that was not actually intended to be taken, including repeatedly threatening to take legal action against Plaintiff (§ 1692e(5));
- c. Communicating with Plaintiff at times or places which were known or should have been known to be inconvenient for Plaintiff, including contacting Plaintiff at or around 5:00 am local time (§ 1692c(a)(1));
- d. Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiff (§ 1692d(5)).

8. Defendant's aforementioned activities, set out in paragraph 8, also constitute an intentional intrusion into Plaintiff's private places and into private matters of Plaintiff's life, conducted in a manner highly offensive to a reasonable person. With respect to the setting that was the target of Defendant's intrusions, Plaintiff had a subjective expectation of privacy that was objectively reasonable under the circumstances.

9. As a result of Defendant's behavior, detailed above, Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and emotional distress.

COUNT I: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages;
- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF WASHINGTON COLLECTION AGENCY
ACT, WHICH IS A PER SE VIOLATION OF THE WASHINGTON
CONSUMER PROTECTION ACT**

11. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages;
- B. Discretionary Treble Damages;
- C. Costs and reasonable attorney's fees,
- D. For such other and further relief as may be just and proper.

COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Actual damages
- B. Punitive Damages; and,
- C. For such other and further relief as may be just and proper.

Respectfully submitted this 25th day of September, 2009.

s/Jon N. Robbins
Jon N. Robbins
WEISBERG & MEYERS, LLC
Attorney for Plaintiff